ECOS 2014 Fall Meeting

Resolutions for Discussion

Expiring Resolutions (10)

11-9 Support for Clean Water Act Section 319 Funding

11-8 On the Use of Guidance

11-7 Federal Resources for State Environmental Programs

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08-15 Supporting Public Notification of Sewage Overflows

02-6 Promoting the Integration of Energy, Environment, and Transportation

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13-3 E-Enterprise for the Environment Leadership Council

ECOS nber 27, 2011
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As certified by
R. Steven Brown
Executive Director

SUPPORT FOR CLEAN WATER ACT SECTION 319 FUNDING

WHEREAS, the 1987 amendments to the Clean Water Act (CWA) established the Section 319 Nonpoint Source Management Program; and

WHEREAS, CWA Section 319 provides money to states for programs to reduce pollution from nonpoint sources which, by U.S. EPA's own admission, pose the greatest remaining threat to the nation's water quality; and

WHEREAS, according to U.S. EPA in the *National Water Quality Inventory: Report to Congress: 2002 Reporting Cycle,* nonpoint sources are the most significant single source of water pollution in the United States, accounting for almost half of all impairments; and

WHEREAS, CWA Section 319 grant money received by states supports a wide variety of activities including installation of Best Management Practices, development of Total Maximum Daily Loads (TMDLs), technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring to assess the success of specific nonpoint source implementation projects; and

WHEREAS, the states often pass on CWA Section 319 funds to local efforts; and

WHEREAS, according to the U.S. EPA's *Clean Watersheds Needs Survey 2008 Report to Congress*, nonpoint source funding needs total $22.8 billion over 20 years or $1.14 billion annually on average; and

WHEREAS, the *Needs Survey* finds "out of the total documented needs of $344.8 billion in the report and appendices, $334.5 billion is potentially eligible for Clean Water State Revolving Fund assistance, and $81.5 billion is potentially eligible for assistance from EPA's Nonpoint Source Grants Program;" and

WHEREAS, current budget proposals request annual funding for the Nonpoint Source Grants Program at a level between $150.5 million and $164.8 million; and

WHEREAS, without consultation with the states, U.S. EPA shifted $25 million in Congressionally appropriated funds for fiscal year 2011 from CWA Section 319 to other programs, decreasing the amount of funding for projects that directly reduce nonpoint source pollution; and

WHEREAS, the reduction in CWA Section 319 funding was the result of a difficult budget choice for U.S. EPA that nevertheless had a significant impact on critical programs and states' abilities to meet previous commitments.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Agrees with U.S. EPA that addressing nonpoint sources of pollution is a high priority for the agency and for states, and justifies substantial and stable funding through a robust CWA Section 319 program;

Calls on the U.S. EPA and the White House Office of Management and Budget (OMB) to recognize that any further cuts to the CWA Section 319 grants program will retard the states' progress towards reducing nutrient pollution in waters of the U.S., and that U.S. EPA and OMB will need to adjust their expectations accordingly; and

Urges the U.S. Congress, OMB and the U.S. EPA to work with state agencies through ECOS when budget cuts are necessary to help determine where the cuts should be made, taking into account the need to minimize the impact of reduced program funding and prevent the deterioration of progress toward meeting the goals of the Clean Water Act.

ECOS nber 26, 2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

ON THE USE OF GUIDANCE

WHEREAS, our nation's regulation of the environment is founded on law through enacted statutes, and regulations issued pursuant to those laws; and

WHEREAS, both the federal government and respective state governments enact statutes and regulations; and

WHEREAS, from time to time, the U.S. Environmental Protection Agency (U.S. EPA) and some, but not all, states may issue documents collectively called "guidance"; and

WHEREAS, U.S. EPA, on its web page at http://www.epa.gov/lawsregs/policy/index.html (as of June 7, 2011) declares "Sometimes, however, that authority needs to be further refined or explained. In such cases, EPA may develop and implement policies and write guidance. In addition, EPA sometimes issues policy or guidance to encourage compliance with environmental requirements;" and

WHEREAS, guidance may serve to interpret regulations in plainer English, so as to facilitate understanding and compliance with the statutes and regulations; and

WHEREAS, states do not issue guidance as a substitute for statutes or regulations; and

WHEREAS, U.S. EPA's use of guidance does not require public notice or participation as does a regulatory proposal in direct conflict with the agency's stated value of transparency, nor is U.S. EPA required to provide notice to the states, as co-regulators, or seek their participation in the development of guidance; and

WHEREAS, U.S. EPA recognizes that guidance does not have the force of law by including disclaimer language in guidance that says, for example, "This draft guidance document is intended to describe for agency field staff the agencies' current understandings; it is not a rule, and hence it is not binding and lacks the force of law" (from EPA's *Draft Guidance on Identifying Waters Protected by the Clean Water Act*).

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Believes that each state reserves the right to use, or refrain from using, guidance as part of its environmental regulatory effort;

Believes that U.S. EPA has the right to use guidance for the purposes declared above;

Urges U.S. EPA to limit use of guidance to "interpretation" of its regulations, not as a substitute for regulation, or to change or expand the effects of the regulation, such as adding or deleting entities covered by current regulation; and

Believes that U.S. EPA has the right to object to a permit under some statutes, however, particularly objects to the use of guidance, which has not been subject to public review and comment, as a justification for official or unofficial objection to the issuance or renewal of a permit.

ECOS 7
2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

FEDERAL RESOURCES FOR STATE ENVIRONMENTAL PROGRAMS

WHEREAS, since 2007, states now operate 96% of the federal programs that are delegable to them, such as the Clean Water Act (CWA), the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), and the Safe Drinking Water Act (SDWA) that protect public health and our nation's air, land, and water resources; and

WHEREAS, of the core environmental protection activities required by federal (and state) law, states conduct 97% of the inspections at regulated facilities; provide 94% of the data in EPA's six major databases; conduct over 90% of all enforcement actions; and are first responders at spills, cleanups, and natural disasters, with EPA providing most of the remaining work directly; and

WHEREAS, in recognition of this key role in environmental service delivery, the U.S. Congress included provisions in the CWA, CAA, RCRA, and SDWA to provide assistance to states to operate these federal programs and this is primarily through, but not limited to, state and tribal assistance grants (STAG), which are composed of two parts: categorical grants (which assist with the operation of delegated programs) and infrastructure funds (most notably the clean water and drinking water state revolving funds - SRF), and in some cases under these statutes required a state match; and

WHEREAS, from the states' point of view, funds that support operation of delegated programs in particular are essential to provide resources to meet congressional requirements for public health and the environment; and

WHEREAS, U.S. EPA grant funding for the non-SRF portions of STAG has been largely flat since FY 2004 and has not been increased to assist states with inflation and other increased staff costs (including per-person wage and health care cost increase); and

WHEREAS, according to the U.S. EPA, during the period 2001-2009, the inflation rate was more than double the increase in categorical grants, cutting these grant's purchasing power by approximately 13%; and

WHEREAS, increases to U.S. EPA's budget have been disproportionally allocated to STAG and decreases to U.S. EPA's budget have been largely pushed to STAG – with the exception of the significant one-time increase to SRF in FY 2010 resulting from the American Reinvestment and Recovery Act (ARRA) (for example, in FY 2004 U.S. EPA increased its non-STAG budget by $244 million while only increasing STAG funds by $43 million, and in FY08 U.S. EPA reduced its non-STAG budget by $45 million while cutting STAG by $361 million); and

WHEREAS, in the 2011 budget proposal, U.S. EPA recommended increases to the categorical grants to states and significant cuts to the SRF of which the U.S. Congress enacted only cuts to SRFs; and

WHEREAS, states have thus far been able to substantially maintain their ability to deliver federally-delegated program commitments, despite the reduction in federal funding; and

WHEREAS, in principle, states are often supportive of the need for federal rules when they are based on sound science to protect human health and the environment, and states support the U.S. EPA's ability to enact these new rules; and

WHEREAS, on average, states received 53 new federal environmental rules (issued as final and completed actions and published by the U.S. EPA) – some of which are significant and some are minor -- to implement each year since fall 2006 through spring 2011; and

WHEREAS, in addition to new environmental rules, the burden of related federal rules, including disadvantaged business enterprise changes, ARRA requirements, and Federal Financial Accountability Transparency Act (FFATA) implementation, has significantly increased the administrative burden to states in the past two years; and

WHEREAS, the combination of the reduction in purchasing power from inflation, budget cuts, and the steadily increasing demands on states to implement new federal environmental rules have begun to impede successful state implementation of delegated programs, and states expect these implementation challenges to increase; and

WHEREAS, in April 2011, the U.S. Congress passed the 2011 budget but the U.S. EPA did not require award of categorical grant funds to states until August 15, more than three months after the budget's passage and after the end of most states' fiscal year.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Recognizes the continuing need for states as co-regulators with the U.S. EPA to jointly work together for the most efficient and effective use of limited resources for the greatest environmental benefit;

Continues to ask that the U.S. EPA seek early, meaningful, and substantial state involvement in its budget development;

Urges U.S. EPA and the U.S. Congress to reverse the trend of inequitable apportionment of U.S. EPA's overall budget adjustments (including increases and decreases) to U.S. EPA's funding for states via the STAG portion of their budget;

Asks that U.S. EPA consider the availability of federal funding support in its planning for new rule adoption schedules and other implementation activities following new rule issuance;

Asks that the U.S. EPA continue to work with states to reduce the time necessary to make grant awards to states following the enactment by the U.S. Congress of the budget or continuing resolution; and

Recognizes that reductions to STAG, in particular categorical grants, jeopardize states' ability to implement federal programs on behalf of the U.S. EPA.

As certified by
R. Steven Brown
Executive Director

CONSIDERATION OF STATE ADMINISTRATIVE COSTS

WHEREAS, state environmental agencies are responsible for implementing nearly all of the core environmental programs that protect public health and our nation's air, land, and water resources; and

WHEREAS, U.S. EPA has proactively adopted internal guidance to consult with states on proposed regulatory actions that are estimated to have an effect on state or local governments of $25 million or more in aggregate, exceeding the requirements of Unfunded Mandates Reform Act (UMRA) of 1995, 1993 Executive Order (E.O.) 12866 "Regulatory Planning and Review," and 1999 Executive Order 13132 "Federalism" to consult on proposed regulatory actions that are expected to exceed $100 million or more; and

WHEREAS, the delegation of new federal environmental rules (issued as final and completed actions and published by the U.S. EPA) to the states continues at a steady pace with states receiving on average 53 new federal environmental rules to implement each year from fall 2006 through spring 2011; and

WHEREAS, with workload increasing and with the federal budget and the majority of state budgets remaining flat or declining, states and the U.S. EPA must prioritize workloads, seek other funding sources such as permit fees, and communicate resource needs to state and federal legislatures; and

WHEREAS, no matter which level of government implements new rules, the costs to do so have to be addressed; and

WHEREAS, states have expressed to the U.S. EPA the potential individual and cumulative burden of state administrative costs from new federal rules and that having U.S. EPA identify, estimate, and include these costs in its regulatory development of new rules might assist the U.S. EPA and states in seeking resources to support implementation of these new environmental rules; and

WHEREAS, states incur start-up and recurring implementation costs as a result of rules that may include, for example: obtaining additional delegated authority; pursuing state rulemaking process to adopt state regulations to implement the federal requirements; attending U.S. EPA training; developing a system for monitoring affected entities; purchasing new equipment to enforce the new regulation; providing compliance assistance; conducting ongoing public outreach and education programs to the regulated communities on how to comply with state agency implementation of the rule; collecting and reviewing data from monitoring; recording, and storing data; and conducting enforcement inspections and follow-up actions; and

WHEREAS, U.S. EPA most often only includes direct compliance costs in its new rule economic analyses; and

WHEREAS, implementation guidance may lag behind new rule publication, resulting in delegated states being delayed in action or delegated states taking action that may have to be amended following release by U.S. EPA of implementation guidance; and

WHEREAS, the E.O. 12866 Section 6 (a)(3)(C)(ii) directs for significant regulatory actions (unless prohibited by law) that federal agencies should have developed "[a]n assessment, including the

underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost … to the government in administering the regulation …" as part of its decision-making process and that section 6(a)(3)(E)(i) directs that this information be made available to the public; and

WHEREAS, E.O. 12866 further directs federal agencies in Section 1(a) that "[c]osts and benefits should be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider;" and

WHEREAS, UMRA directs federal agencies to include a number of statements to accompany significant regulatory actions in a notice of proposed rulemaking including Section 202 (a)(2) that "the agency shall prepare a written statement containing… a qualitative and quantitative assessment of the anticipated costs and benefits of the Federal mandate, including the costs and benefits to State… governments;" and

WHEREAS, the 2011 Executive Order 13563 "Improving Regulation and Regulatory Review" reiterates general principles of regulation including that the regulatory system must take into account benefits and costs, both quantitative and qualitative, and directs federal agencies to take into account to the extent practicable the costs of cumulative regulations; and

WHEREAS, ECOS met with U.S. EPA's Administrator in 2006 to discuss funding shortfalls to administer federal environmental laws and consequently worked with the U.S. EPA Office of Policy's National Center for Environmental Economics (NCEE) on a cost of rules study, "A Framework for Reviewing EPA's State Administrative Cost Estimates: A Case Study," published in September 2007; and

WHEREAS, since September 2010, ECOS on behalf of states has submitted, without response from U.S. EPA, written comments on five U.S. EPA proposed rules asking that U.S. EPA consider appropriate costs for start-up and recurring activities in its estimations of state administrative costs.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Continues to support early, meaningful, and substantial state involvement in the development and implementation of environmental statutes and related rules including consideration of administrative resources needed to accomplish rule implementation;

Asks that the U.S. EPA include estimates of both state administrative costs and state direct compliance costs as called for by the above referenced executive orders and by UMRA;

Asks that U.S. EPA consider state administrative costs for a wide range of implementation start-up and recurring activities in its cost estimations for new rules;

Requests that U.S. EPA's Office of Policy review its regulatory rule development system to ensure that national media program offices include in their proposed significant regulatory actions a qualitative and quantitative assessment of benefits and costs of new rules including state administrative costs and state direct compliance costs and that this information is made public;

Requests to the greatest extent possible that the U.S. EPA concurrently publish implementation guidance for new rules to states at the time of new rule issuance as timely issuance of implementation guidance would facilitate state adoption of new rules as well as increase state and U.S. EPA staff resource efficiency in completing activities related to new rule adoption;

Asks that U.S. EPA consider the availability of federal funding support in its planning for new rule adoption schedules and other implementation activities following new rule issuance;

Recognizes that failure to include an accurate assessment of the state administrative implementation costs may result in a rule that is not implemented properly or in a timely manner, which may adversely affect human health, and which may require additional action from U.S. EPA; and

Requests that U.S. EPA provide to states its estimates of state administrative costs for any new rule to assist in planning and in seeking appropriate resources.

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nber 26, 2011
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As certified by
R. Steven Brown
Executive Director

IN SUPPORT OF LOCAL, STATE, AND FEDERAL ACTION TO SECURE VEHICLE LOADS

WHEREAS, it is the responsibility of local, state, and federal officials to provide for safe roadways and transportation corridors in the United States; and

WHEREAS, there are nearly 4 million centerline miles of roadway in the United States; and

WHEREAS, there are more than 51 billion pieces of litter on our nation's roadways, 4.6 billion of which are larger than four inches in size; and

WHEREAS, anywhere between 20 and 40 percent of all litter found on the roadways comes from unsecured loads; and

WHEREAS, on an annual basis litter costs states, counties, cities, businesses, educational institutions, and litter abatement organizations approximately $11.5 billion per year for litter cleanup, education, and/or disposal programs; and

WHEREAS, surveys show that more than 90 percent of respondents indicate that they consider vehicle-related road debris to be a somewhat serious or very serious road safety problem, (AAA Foundation for Traffic Safety (2002)); and

WHEREAS, road litter causes an estimated 25,000 accidents in the United States each year resulting in nearly 100 fatalities (2004 AAA Foundation for Traffic Safety report); and

WHEREAS, 34 states currently have laws on secured loads but there is no national legislation; and

WHEREAS, 11 states impose fines plus possible jail time for offenses; and

WHEREAS, national secured load legislation is supported by the AAA Foundation for Traffic Safety, the Commercial Vehicle Safety Alliance, and others.

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS supports strong enforcement of secured load laws at the state, county, and local level.

ECOS supports education campaigns to educate drivers on how to properly secure loads to prevent litter and accidents.

ECOS supports congressional action to mandate secure loads across the country.

ECOS

Resolution 11-4
Approved September 26, 2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

ON CHEMICALS PRIORITIZATION AND THE SAFER CHEMISTRY CHALLENGE PROGRAM

WHEREAS, the 2011 International Year of Chemistry established by the United Nations commemorates the achievements of chemistry; and

WHEREAS, raising awareness of chemistry among the general public to attract young people into the field, as well as highlighting the role of chemistry in solving global problems is critical; and

WHEREAS, the chemical industry is responsible for significant improvements to the health and well being of all Americans and for people around the world, and is vital to the U.S. economy by providing hundreds of thousands of jobs and supplying hundreds of products; and

WHEREAS, there are increasing concerns about the safety of chemicals in commerce and an overwhelming agreement on the need to reform the Toxic Substances Control Act (TSCA) of 1976; and

WHEREAS, the U.S. Centers for Disease Control and Prevention's *National Conversation on Public Health and Chemical Exposures* brought thousands of people from across the United States to create an Action Agenda to help governments strengthen efforts to protect the public from harmful chemical exposures; and

WHEREAS, people expect to be kept safe from harmful chemical exposures and recognize the urgency to protect children and other vulnerable populations and the environment; and

WHEREAS, workers have the greatest risk of industrial chemical exposure given their proximity to chemicals in the workplace, often in high concentrations; and

WHEREAS, many businesses are working to achieve high levels of environmental compliance and performance through sustainable business practices to remain competitive in the global marketplace; and

WHEREAS, the U.S. EPA's National Partnership for Environmental Priorities (NPEP) reduced 42 million pounds of chemicals in partnership with more than 280 public and private organizations; and

WHEREAS, the U.S. EPA Office of Chemical Safety and Pollution Prevention intends to identify priority chemicals for review and possible risk management action under TSCA, and supports enhanced chemicals management and design for environment (DfE) programs to assess the full life-cycle risks posed by the use of toxic chemicals in products; and

WHEREAS, the U.S. EPA Great Lakes National Program Office has awarded a grant to the National Pollution Prevention Roundtable (NPPR) to conduct business technical assistance to reduce the use of priority chemicals of concern through source reduction with a goal to prevent at least 2 million pounds of toxic chemicals from entering the Great Lakes ecosystem; and

WHEREAS, alternatives assessment is a process of identifying and comparing potential chemical and non-chemical alternatives to a chemical of concern to facilitate informed substitution; and

WHEREAS, pollution prevention can achieve toxics use reduction, promote green chemistry and engineering, and provide educational and economic opportunities to develop safer chemicals, processes and products; and

WHEREAS, states, universities, and businesses play an important role in implementing pollution prevention programs, voluntary initiatives, and technical assistance services, including providing assistance to small businesses.

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS member states should actively participate in U.S. EPA's process for identifying priority chemicals for review and assessment, including providing input on data sources for prioritization. States should provide input on sources of hazard data sources and risk data sources to assist U.S. EPA in selecting specific chemicals from the initial group for further assessment. U.S. EPA's identification process is outlined here: http://www.epa.gov/oppt/existingchemicals/pubs/chempridiscguide.html

ECOS state members, led by the Great Lakes region, support collaborative efforts to work with the National Pollution Prevention Roundtable and other organizations to support the 2025 Safer Chemistry Industry Challenge Program with a goal to reduce the use of chemicals of concern by 25% using 2005 use as a baseline[1].

To the extent possible, states should work in partnership with industry sectors or individual facilities to target chemicals of concern to promote the substitution of hazardous chemicals with less toxic alternatives, green chemistry, research and development, recognition programs, and public education.

ECOS requests the Administrator of the U.S. EPA to endorse and fund toxic use reduction efforts through the State Performance Partnership Agreements, state pollution prevention grants, and public-private partnership efforts.

[1] A description of the program current as of September 2011 is included here as Appendix 1. A candidate list of chemicals current as of September 2011 is included here as Appendix 2.

Appendix 1

2025 Safer Chemistry Industry Challenge Program of the National Pollution Prevention Roundtable (NPPR)

More than ever before, companies are focused on achieving high levels of environmental performance and sustainable business practices. Sustainable business practices create market opportunities and help companies remain competitive in the global marketplace. The environmental benefits that come from these sustainable practices include resource conservation and pollution prevention. Such practices are a means to meet environmental standards and ensure a high quality of life for future generations.

Moving toward safer chemistries is a key part of sustainable business practices, along with energy efficiency and water conservation. To increase their sustainable business practices, companies are looking for greener, safer alternatives in the products they manufacture and use.
Companies can lead by example and model good environmental performance by using a systematic approach for managing environmental responsibilities, taking extra steps to reduce and prevent pollution, eliminating the use of toxic compounds, and substituting safer alternatives.

NPPR 2025 Safer Chemistry Industry Challenge Program

The NPPR 2025 Safer Chemistry Industry Challenge Program is designed to motivate, challenge, and reward facilities to reduce the use of chemicals, especially hazardous chemicals, through source reduction measures. These measures include the following approaches:

- Making changes in production processes and adopting new technologies
- Moving toward cleaner processes that avoid the use and generation of toxic chemicals
- Changing raw materials to include benign or low toxicity materials that degrade into innocuous substances in the environment
- Using tools and design options in support of green chemistry
- Selecting and using safe alternatives

As part of this program, companies are encouraged to partner with state and local technical assistance programs. Such programs can help identify ways to reduce waste and emissions and move toward safer substitute chemicals, which can result in reduced costs, improved productivity, and regulatory compliance.

Challenge Program Benefits
By making changes and participating in the Challenge Program, companies can:

- Improve employee health and safety
- Minimize risk and liability
- Institute supply chain initiatives
- Improve company image with the community
- Reward investments in the design of increasingly safer chemicals and products
- Reduce cost of compliance and employee protection
- Realize that alternatives may have improved performance
- Improve profitability

Target Chemical List
Companies will develop their target chemical list in two steps: 1) include appropriate chemicals of high concern, and 2) add chemicals of concern specific o your industry or company operations.

Step 1: The following chemicals are of high concern as determined by the U.S. EPA and other organizations and should be considered for reduction or elimination by companies participating in the Challenge Program.

Lead	Polybrominated diphenylethers (PBDEs)
Mercury	Hexabromocyclododecane (HBCD)
Chromium	Phthalates
Cadmium	Bisphenol A (BPA)
Perchloroethylene	Short chain chlorinated paraffins
Perfluorinated compounds (PFCs)	Formaldehyde

Step 2: Select chemicals of concern specific to your industry sector or facility to target for reduction.

Program Reduction Goals (taking into account production ratio)

- Document previous achievements since 2005 (baseline year)
- 10% by 2015
- 20% by 2020
- 25% by 2025

Steps to Participating in the Challenge Program

Step 1. Make the commitment

- Develop and communicate a corporate policy statement indicating management commitment to eliminating or reducing the use of chemicals of concern and substitute safer alternatives
- Form a team with identified team leader to address the project and implications for the business

Step 2. Conduct an assessment

- Work to develop a comprehensive understanding (or inventory) of the chemicals used in processes and products at the facility
- Ask suppliers for data on chemical ingredients of products. Assess the hazardous constituents of the chemicals used
- Categorize chemicals into categories of high, moderate, low or unknown concern/use
- Utilize NPPR's member technical assistance program resources (see Resources section)

Step 3. Set performance goals

- Create a list of chemicals of concern specific to facility operations
- Prioritize chemicals for elimination or reduction, taking into account volume of use, toxicity, potential for exposure, public and/or governmental concern and customer demand
- Publicly share the list of priority chemicals of concern
- Establish elimination/reduction goals and schedules for the targeted chemicals list
- Describe achievements to date

Step 4. Create an action plan

- Identify and select alternatives (see Resources section for screening tools)
    - o Conduct alternatives assessments for the target list of chemicals
    - o Assess hazards and effectiveness of potential alternatives
    - o Identify elimination/reduction opportunities, taking into account technical and cost considerations
- Focus initial elimination/reduction efforts on target list of chemicals for which safer alternatives are readily available
- For each priority chemical of concern, create a workplan with action steps, roles, and timelines

Step 5. Implement the action plan

- Utilize NPPR's member state technical assistance programs
- Utilize internal team to implement needed tasks

Step 6. Evaluate progress

- Establish a metrics system to track elimination/reduction efforts
- Measure and document results
- Publicly report on progress in achieving performance objectives
- Update goals and plan as necessary

Step 7. Recognize and communicate achievements

- Promote new and existing members (website, brochure, newsletter)
- Keep employees informed and publicize accomplishments
- Apply to NPPR MVP2 program

- Make use of state recognition programs
- Develop NPPR web profile, case studies, and success stories
- Develop press release, including notification of legislators
- Use special logo that designates the company as a Challenge Program participant
- Attend and present information at the National Environmental Sustainability Summit

Program resources
Tools for screening chemicals and selecting alternatives

- Green Screen for Safer Chemicals: http://www.cleanproduction.org/Green.Greenscreen.php
- P2Rx Rapid Response and other resources: P2rx.org
- QCAP:
- EPA Chemical Screening Tool for Exposures and Environmental Releases, ChemSTEER: http://www.epa.gov/opptintr/exposure/pubs/chemsteer.htm
- EPA Design for the Environment (DfE): http://www.epa.gov/dfe/alternative_assessments.html

NPPR Training and Technical Assistance resources

- Summit sessions:
  - Emerging chemical policy in states
  - New/developing regulations on toxic chemicals
  - Interrelationship between toxics, energy, and GHGs, and technology development
  - Process innovation
  - Green chemistry
- Training
  - On line training modules
  - Webinars
  - P2 101 training
  - E2 101 training
- Workgroups – Access to workgroup members with extensive background in chemicals policy development
  - Dialog between business and states via NPPR workgroups on topics related to regulation, policy, technology, training, etc.
  - Technical assistance – staffed by scientists and engineers with experience assessing industrial processes
  - Partners – access to other related expertise in energy efficiency, lean, supply chain, etc.

NPPR background
For over 25 years, the NPPR has supported state, local, and tribal programs to develop, implement, and evaluate efforts to avoid, eliminate and reduce waste generated to air, land, and water. NPPR has been at the forefront of efforts to prevent pollution by promoting activities in product substitution, safer alternatives, and green chemistry. These are ongoing initiatives including technical assistance, information exchange, chemicals policy, forming partnerships, and education.

Requirements for Participation
To qualify for participation, companies must have a systematic approach to eliminating the use of targeted chemicals, demonstrate results, and be recognized for results achieved. Businesses must meet the following criteria:

- Be a member of the National Pollution Prevention Roundtable
- Sign the commitment form on NPPR web site
- Utilize technical assistance provided to company from state programs to identify toxic chemical reduction opportunities
- Develop a plan for chemical reduction
  - Target chemical focus
  - Schedule
  - Action plan

- Conduct six-month reporting on progress
- Be available to be recognized at the 2011 National Environmental Sustainability Summit

Rolling out the Challenge Program

- Develop proposal for and obtain funding
- Develop brochure and resource materials
- Partner with SAC, others?
- Post Challenge program on NPPR web site (8 step program)
    - Description
    - Commitment form
    - Template plan
    - Reporting form
- Oversee promotions and outreach
    - 2011 Summit debut
    - P2RESS and P2OST
    - P2Tech listserve
    - Mailings/emails
- Host webinar to walk through steps

Additional Partnering and Coordination Information

EPA Coordination and Collaboration

- Hold Policy forums (Ken Zs ideas). Bring together industry, EPA and states to talk toxic chemicals reduction policy and green chemistry
- Identify ways to address EPA strategic plan priorities
- Identify educational outreach and technical assistance needs and funding opportunities

Program sponsors: NPPR, US EPA, SAC, industry groups, NGOs, states

- Determine organizational structure and divide up roles and responsibilities
- Establish participation guidelines
- Conduct outreach and recruitment
- Review program performance and issue reports
- Update program components when necessary
- Create budget and seek funding support

Appendix 2

The following list of chemicals for the 2025 Safer Chemistry Industry Challenge Program was developed by NPPR. The list is based on U.S. EPA and various state chemical management programs. The list was developed with input and peer review from NPPR state members. The list includes lists developed by the U.S. EPA's chemical action plans, U.S. EPA National Partnership for Environmental Priorities, the Massachusetts Toxic Use Reduction Institute, the Minnesota Toxic Free Kids Act, and the Washington State Toxic Metals Prevention Program.

Various State and Federal Priority Chemical Lists

EPA NPEP (31), Natl Partnership for Environmental Priorities

http://www.epa.gov/epawaste/hazard/wastemin/priority.htm

1,2,4-trichlorobenzene
1,2,4,5-tetrachlorobenzene
2,4,5-trichlorophenol
4-bromophenyl phenyl ether
acenaphthene
acenaphthylene
anthracene
benzo(g,h,i)perylene
debenzofuran
dioxins/furans
endosulfan,alpha and beta
fluorene
heptachlor and heptachlor epoxide
hexachlorobenzene
hexachlorobutadiene
hexachlorocyclohexane,gamma (lindane)
hexachloroethane
methoxychlor
naphthalene
pendimethalin
pentachlorobenzene
pentachloronitrobenzene (quintozene)
pentachlorophenol
pnenanthrene
polycyclic aromatic compounds (incl PAHs)
polychlorinated biphenyls (PCBs)
pyrene
trifluralin
cadmium
lead
mercury

State Chemicals Lists

Washington State

cadmium
lead
chromium
mercury

Mass TURI 5 Chemicals Study

perchloroethylene
formaldehyde
chromium (hex)
lead
di-2-ethyhexylphthalate (DEHP)

Minnesota Toxic Free Kids Act

http://www.health.state.mn.us/divs/eh/hazard/topics/toxfreekids/highconcern.html

(125 pages, priority chemicals below)
bisphenol A (BPA)
cadmium
decabromodiphenylether (decaBDE)
formaldehyde
hexabromocyclododecane (HBCD)
lead
phthalates

EPA Chemical Action Plans

bisphenol A (BPA)
benzidine dyes and pigments
hexabromocyclododecane (HBCD)
PFCs
nonylphenol/nonyl phenolethoxylates (NP)
penta,octa,deca-bromodephenyl (PBDES)
phthalates
short chain chlorinated paraffins
isocyanates/diisocyanates
siloxanes (future)

Resolution 11-3
Approved September 26, 2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

URGING CREATION OF A DENTAL AMALGAM SEPARATOR NATIONAL REVIEW COMMITTEE

WHEREAS, mercury is a persistent, bioaccumulative, and toxic substance; and

WHEREAS, all 50 states have mercury-related fish consumption advisories; and

WHEREAS, mercury is used in dental restorative materials; and

WHEREAS, mercury from dental discharges is often the single largest source of mercury for publicly owned treatment works (POTWs) and results in releases to the water through wastewater effluent, the air when sludge is incinerated, and to the land when sludge is land-applied; and

WHEREAS, a study commissioned by the American Dental Association (ADA) estimated that 6.5 tons of mercury to POTWs per year comes from dental offices, which equates to 53 percent of the loading; and

WHEREAS, U.S. EPA estimates there are approximately 160,000 dentists working in over 120,000 dental offices that use or remove amalgam in the United States, many of whom discharge their wastewater exclusively to POTWs; and

WHEREAS, in March 2010, the Environmental Council of the States (ECOS) urged U.S. EPA in Resolution 07-1 (renewed March 2010) to include dental facilities under the Health Care Sector for rulemaking in its Effluent Guidelines Program Plan and require adoption of best management practices and amalgam separators that reduce mercury discharges to protect the environment; and

WHEREAS, in October 2010, U.S. EPA informed ECOS that it would initiate an effluent guideline rulemaking for dental facilities to reduce discharges of mercury to the environment, with a plan for finalizing a rule in 2012; and

WHEREAS, the accepted methodology for testing the overall efficiency and performance of amalgam separators is specified in the International Organization for Standardization's (ISO) Standard 11143 Dentistry – Amalgam Separators (ISO 11143); and

WHEREAS, the ADA recommends the installation of ISO 11143 compliant amalgam separators in its principles that were adopted for the development of mandatory national pretreatment standards for dental office wastewater; and

WHEREAS, amalgam separators can remove up to 99 percent of mercury solids from dental office discharges; and

WHEREAS, the accepted international process for ensuring that amalgam separator equipment performs in the real world as well as measured against the ISO standard, is known as the "Conformity Assessment Process," which includes ISO testing, certification, and accreditation of independent laboratories and certification bodies, and is a voluntary process; and

WHEREAS, states and municipalities with regulations addressing the dental sector now gather and evaluate amalgam separator information separately at significant effort, expense, duplication of effort, and potential for inconsistency; and

WHEREAS, states and municipalities face daunting budget constraints that necessitate greater efficiencies in data collection, review, and dissemination.

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS urges U.S. EPA to ensure consistent and effective implementation of the effluent guidelines so as to most effectively use the limited resources of federal, state, and local governments, and avoid duplication of effort.

ECOS urges U.S. EPA to support mechanisms that ensure that reviews of amalgam separator ISO testing, certification, and accreditation, are completed efficiently and information is effectively shared.

ECOS urges U.S. EPA to support and take a leading role in convening a volunteer National Amalgam Separator Review Committee with POTW, city, county, state, and national representatives for the purpose of evaluating and sharing amalgam separator data, so as to ease the burden on state and local governments implementing the effluent guideline for dental facilities. This Review Committee would serve as the centralized point-of-contact for separator manufacturers to submit test reports and certifications for review and should be charged with: determining appropriate scientific criteria for evaluating performance data; reviewing test reports and certificates; identifying data gaps and deficiencies; and providing a listing of amalgam separator specifications in a format that is easily accessible for regulators and dentists.

Copies of this resolution will be transmitted to the Administrator of U.S. EPA, the Director of the U.S. Office of Management and Budget, the President of the United States, and the U.S. Congress.

Resolution 08-16
Approved September 23, 2008
Branson, Missouri

Revised September 26, 2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

LONG-TERM FINANCING FOR THE NATIONAL ENVIRONMENTAL INFORMATION EXCHANGE NETWORK

WHEREAS, States, Territories, Tribes, and U.S. EPA have committed themselves to implementing the National Environmental Information Exchange Network (Exchange Network) as a standards-based, interoperable, national architecture for environmental data sharing, access, and exchange; and

WHEREAS, the U.S. EPA Exchange Network Grant Program has provided a key funding mechanism for the ongoing development and implementation of Exchange Network infrastructure and data flows in the States and Tribes; and

WHEREAS, U.S. EPA has funded technical and administrative support for the Exchange Network's Governance, Coordinator, Website, and Annual Meeting; and development of innovative shared services, data exchanges, security infrastructure, and other central services through the Exchange Network Grant Program and investments from the EPA operations budget; and

WHEREAS, the long-term operations and maintenance of the Exchange Network will require ongoing sources of funding beyond the expected life of the Exchange Network Grant Program; and

WHEREAS, the operation and maintenance of alternative data exchange mechanisms currently are funded by State, Territorial, Tribal, and Federal program budgets; and

WHEREAS, ECOS recognizes and supports states that remain direct users of a federal database versus building a state system and flowing data to U.S. EPA over the Exchange Network.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Supports the continued implementation of Exchange Network data flows between and among States, Territories, Tribes, U.S. EPA, and other Partners and an expeditious transition away from alternative data exchange methods as readiness allows;

Recognizes that ongoing operational and maintenance costs for the Exchange Network will need to be borne by individual States and Tribes and by U.S. EPA, including the Office of Environmental Information and program offices, as the Exchange Network becomes the standard method for exchanging environmental data;

Requests U.S. EPA to support and encourage the use of programmatic grants for the maintenance and operation of regulatory data flows that use the Exchange Network; and

Strongly supports the inclusion of dedicated funding in the U.S. EPA budget to sustain the Exchange Network's Governance, Coordinator, Website, and Annual Meeting; and development of innovative shared services, data exchanges, security infrastructure, and other central services.

Resolution 08-15
Approved September 23, 2008
Branson, Missouri

Revised September 27, 2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

SUPPORTING PUBLIC NOTIFICATION OF SEWAGE OVERFLOWS

WHEREAS, the United States Environmental Protection Agency estimates that 850 billion gallons of sewage are released into waters of the United States every year as a result of aging and failing sewer systems and wet weather events; and

WHEREAS, sewage overflows into waters of the United States produce substantial environmental, public health and economic impacts; and

WHEREAS, sewage overflows into waters of the United States can lead to the contamination of drinking water supplies, closure of waters to fishing and swimming, fish kills, and overall degradation of water quality; and

WHEREAS, Federal law does not provide uniform, national standards for public notification of combined and sanitary sewer overflows; and

WHEREAS, reporting of sewage overflows into waters of the United States to the public can educate the citizenry and help build public support for improvements to and increased funding for sewer systems.

NOW, THEREFORE, BE IT RESOLVED:

ECOS supports the public's right to know when sewage overflows into waters of the United States pose a danger to public health and the environment.

ECOS requests that any modifications to current laws, regulations, or policies to require public notification of sewage overflows into waters of the United States from waste water treatment works, sanitary sewer systems, and combined sewer systems shall:

Include a clear definition of "sewage overflow";

Include a requirement to describe the level of treatment provided to the sewage overflow;

Ensure that overflows to waters of the United States are reported in a timely and effective manner to ensure public health and the safety of source waters;

Require only necessary and realistic monitoring and/or reporting that would not impose undue burdens that are disproportionate to any realized public benefit;

Identify a protected source of federal funding to fully finance the costs of any monitoring and reporting requirements necessary to meet this new federal mandate; and

Not supersede other requirements of the Clean Water Act and any more stringent state requirements.

Resolution 02-6
Approved October 8, 2002
San Antonio, Texas

Revised September 9, 2005
Kennebunkport, Maine

Revised September 22, 2008
Branson, Missouri

Revised September 26, 2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

PROMOTING THE INTEGRATION OF ENERGY, ENVIRONMENT, AND TRANSPORTATION

WHEREAS, the Environmental Council of the States (ECOS) has had a sustained interest in the relationships among energy, environment and transportation; and

WHEREAS, increases in the price of oil have caused increased interest in reduction of its use, the amount that is imported, and the substitution of other energy sources for economic and environmental reasons; and

WHEREAS, at least 29 of states and one territory have mandatory plans for renewable energy portfolios and another five ask for voluntary commitments from utilities; and

WHEREAS, rapid advances in hybrid, plug-in hybrid, battery, and other technologies for automobiles and light trucks promise opportunities for significant reductions in ozone, carbon dioxide, and other air pollutants; and

WHEREAS, the reduction in emissions will be even greater if the electric portion of vehicle energy use is supplied by less polluting sources, both renewable and non-renewable; and

WHEREAS, ECOS acknowledges that less reliance on gasoline-fueled vehicles presents many new challenges, such as for highway tax policies and distribution of alternative fuels; and

WHEREAS, since its creation under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) has provided an important source of federal funds for states to reduce air emission from transportation sources and an opportunity to demonstrate advanced technology vehicles; and

WHEREAS, states retain the ability to promote clean energy sources and various incentives that promote emission-free vehicles use; and

WHEREAS, land use and urban planning can substantially reduce vehicle use by providing living environments that reduce vehicle miles traveled.

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS will continue to recognize the connections among energy, environment, and transportation, and promote energy and transportation policies that benefit the environment and public health.

ECOS supports changes to the built environment that result in higher satisfaction with living conditions, reduced vehicle miles traveled, and greater public health protection.

ECOS supports approaches by the states and by the federal government that promote energy efficiency and the development of clean renewable energy and other energy sources that reduce or eliminate air pollutants.

ECOS supports policies that promote the development and use of vehicles that minimize air pollution emissions.

ECOS supports a national discussion on revisions to funding the national Highway Trust Fund, which is funded by a tax on gasoline, because the current program provides a disincentive for the states to adopt policies to reduce gasoline usage and because the Fund will decrease as the nation's consumption of gasoline decreases with increased use of alternative fuels.

ECOS supports the continued authorization and funding of CMAQ under the reauthorization of SAFETEA-LU (See ECOS Resolution 10-6 "On the Authorization of the Federal Surface Transportation Bill and the Congestion Mitigation and Air Quality Improvement Program," approved August 30, 2010 in Whitefield, New Hampshire) and broad eligibility of projects and programs that reduce emissions from the transportation sector and promote the use of advanced technology and zero emission vehicles.

ECOS supports opportunities for dialogue on these issues with the National Governors Association and our sister associations – the American Association of State Highway and Transportation Officials, the National Association of State Energy Officials, the National Association of Regulatory Utility Commissioners, the National Association of Clean Air Agencies, and others.

Resolution 13-3
Approved September 16, 2013
Arlington, Virginia

As certified by
R. Steven Brown
Executive Director

E-ENTERPRISE FOR THE ENVIRONMENT LEADERSHIP COUNCIL

WHEREAS, multiple state and federal Executive Orders mandate agencies to increase efficiencies, reduce regulatory burdens and build a 21st century government that makes efficient use of digital and other advanced technologies; and

WHEREAS, ECOS and U.S. EPA in July 2012 approved the *Charter for ECOS EPA Working Group on Electronic Environmental Transactions* to develop a vision for E-Enterprise for the Environment (E-Enterprise); and

WHEREAS, E-Enterprise is a joint initiative of States and U.S. EPA to improve environmental outcomes and dramatically enhance service to the regulated community and the public by maximizing the use of advanced monitoring and information technologies, optimizing operations, and increasing transparency; and

WHEREAS, E-Enterprise establishes procedures for States and U.S. EPA to follow in pursuing streamlining and modernization of business processes and developing and implementing new approaches to environmental management; and

WHEREAS, E-Enterprise establishes a mechanism for States and U.S. EPA to engage earlier and more effectively in improving business processes and program operations; and

WHEREAS, E-Enterprise provides States and U.S. EPA with enhanced transparency with respect to regulated entity environmental performance, ambient environmental conditions, and administrative processes, which States and U.S. EPA can use to effectively allocate scarce resources; and

WHEREAS, E-Enterprise calls for the development of shared technical infrastructure which can be re-used by U.S. EPA programs and States to lower development and operating costs, as well as the development of shared programmatic services to support program streamlining and modernization; and

WHEREAS, ECOS and U.S. EPA in a December 2012 Joint Governance Statement agreed to the creation of a joint governance structure to support the development, implementation, and continuous improvement of E-Enterprise; and

WHEREAS, the E-Enterprise Working Group recognizing that joint governance will foster compatibility among government platforms, empanelled a Governance Team to develop a governance structure and charter; and

WHEREAS, the E-Enterprise Working Group recommends establishment of the proposed E-Enterprise Leadership Council (EELC); and

WHEREAS, the E-Enterprise Working Group developed and recommends the proposed Charter to guide the operation of the proposed E-Enterprise Leadership Council.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Endorses and approves the establishment of the E-Enterprise Leadership Council;

Endorses and approves the Charter of the E-Enterprise Leadership Council to guide and oversee the implementation and operation of E-Enterprise for the benefit of States and U.S. EPA as co-regulators as well as for the benefit of the regulated community and the public; and

Calls on States and U.S. EPA, to the extent practicable, to implement the recommendations of the E-Enterprise Leadership Council.